

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

WILLIAM S. FRAUNFELDER, )  
vs. )  
Petitioner, )  
SUPERINTENDENT, NEW CASTLE ) 1:13-cv-135-WTL-TAB  
CORRECTIONAL FACILITY, )  
Respondent. )

## **Entry and Order Dismissing Action**

I.

The respondent's unopposed motion to dismiss [Dkt 16] is **granted** because the habeas petition does not allege a claim cognizable under 28 U.S.C. § 2254(a), *Perruquet v. Briley*, 390 F.3d 505, 511 (7th Cir. 2004)(“To say that a petitioner's claim is not cognizable on habeas review is thus another way of saying that his claim ‘presents no federal issue at all.’”)(quoting *Bates v. McCaughtry*, 934 F.2d 99, 101 (7th Cir. 1991), and because even if such a claim could be discerned from the habeas petition the petitioner has not satisfied the exhaustion requirement of the federal habeas statute. *Lewis v. Sternes*, 390 F.3d 1019, 1025–26 (7th Cir. 2004)(as to exhaustion of state remedies, a petitioner must “assert his federal claim through one complete round of state-court review, either on direct appeal of his conviction or in post-conviction proceedings . . . . This means that the petitioner must raise the issue at each and every level in the state court system, including levels at which review is discretionary rather than mandatory.”)).

**II.**

The dismissal of the action shall be without prejudice, and judgment consistent with this Entry shall now issue.

**III.**

Pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the *Rules Governing 2254 Proceedings*, and 28 U.S.C. § 2253(c), the court finds that the petitioner has failed to show that reasonable jurists would find it “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The court therefore **denies** a certificate of appealability.

**IT IS SO ORDERED.**

Date: 06/14/2013

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Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana

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